

**DURHAM, NORTH CAROLINA  
MONDAY, FEBRUARY 4, 2008  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Patrick Baker, Interim City Attorney Karen Sindelar, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell welcomed Interim City Attorney Karen Sindelar to the meeting.

Council Member Catotti presented the Bull City Gymnastics Team with a Certificate of Appreciation. She congratulated the team members, coaches and their parents.

Mayor Pro Tempore Cole-McFadden recognized Coordinator Jamie Miller and members of the Teens Against Consuming Alcohol who gave a presentation of the program.

City Council Members made comments on the following events attended and special recognition of individuals, organizations, etc:

Council Member Woodard: Public Radio Program Week in America, Uplift East Durham Home Tour, and 5<sup>th</sup> Anniversary of Southern Documentary -- CEO Steven Channing and upcoming films: *Durham: A Self-Portrait*, etc.

Mayor Pro Tempore Cole-McFadden: 10<sup>th</sup> Anniversary of Training for Success -- Coach D, Durham UNCF Steering Committee--*Evening with the Stars*, and 38<sup>th</sup> Anniversary of Rev. J C Cheek.

Council Member Clement: Tar Heel of the Week - Rev. Melvin Whitley.

Council Member Brown: Uplift East Durham Home Tour and Regional Transit Plan.

Council Member Brown asked City Manager Baker to add the issue regarding the Regional Transit Plan as quickly as possible to an agenda for discussion.

Council Member Clement requested that periodic reports be provided to Council from Durham representatives on the Regional Transit Plan.

**February 4, 2008**

Mayor Bell stated he would provide Council Member Clement with the schedule and agenda for the next meeting concerning this Regional Transit Plan.

Council Member Catotti: Shepherd IB Magnet Middle School Kickoff of African American History Month.

Mayor Bell: Shepherd IB Magnet Middle School 7<sup>th</sup> grade class reading.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk.

City Manager Baker gave an update on the water supply. He highlighted the following: lake levels of Lake Michie and Little River, amount of water being pumped from the Teer Quarry, days of supply remaining, premium water, 1st and 2nd interconnection with Cary and current lake capacity.

Council discussion was held on the following issues: gallons per day pulling from Jordan Lake through Cary, water being utilized per day and actual usage of water per day.

Mayor Bell asked the City Manager to have discussions with Cary to see if there is any reason that the City may not be able to pull water from Jordan Lake through Cary and to include this information in the checklist along with the issue of moving to the next stage for Thursday's Work Session.

For Thursday's Work Session, Council Member Brown asked for clarification on the usage of water that is being provided to the public. He stated the City Manager is reporting an average of 18.07 million gallons per day and the story in The News & Observer is reporting that the City is using over 21 million gallons per day.

City Manager Baker stated the information that is being provided to Council is a 30-day running average of water that is drawn from the water supplies, i.e., Lake Michie, Little River and Teer Quarry - 18.07 million gallons and that amount does not include water that is coming from any other supply which includes Eno River and the Cary Interconnection.

Council Member Brown made comments on the rate of water conservation. He stated he would discuss with Triangle J Council of Governments the issue of having a uniform methodology and definitions throughout the region.

Council Member Clement made comments in support of a Regional Water Authority to address the same language and to eliminate the confusion about definitions.

Council Member Ali asked the City Manager to provide Council with a copy of the written water report in advance of the meeting.

Council held discussion on the amount of water that is pulled from Cary.

Mayor Bell asked the administration to provide information on the water cost per day from Cary.

**February 4, 2008**

Council held discussion on the water agreement with Cary.

Council Member Brown asked the administration to address the issue of climate change in the management of the water supply--what steps will be taken as the City considers climate change based upon the past and the future.

Council held discussion on the following issues: Tier rates, average water and sewer rates.

Mayor Pro Tempore Cole-McFadden urged her colleagues to commemorate the life of Rosa Parks.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Item #15 was pulled.

**MOTION** by Council Member Woodard seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: TECHNICAL CORRECTION TO THE TW ALEXANDER VOLUNTARY ANNEXATION PETITION ORDINANCE**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a technical correction to the annexation ordinance for TW Alexander, changing it from non-contiguous to contiguous was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13543**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to approve City Council minutes for the December 17, 2007 and January 7, 2008 City Council Meetings; and

To approve City Council action taken at the December 20, 2007 City Council Work Session was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**February 4, 2008**

**SUBJECT: 2007 MUNICIPAL PRIMARY AND MUNICIPAL CITY ELECTIONS –  
DURHAM COUNTY BOARD OF ELECTIONS**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to receive a report on the 2007 Municipal Election; and

To authorize payment in the amount of \$214,436.58 to the Durham County Board of Elections for the City of Durham 2007 Municipal Primary and Municipal City Elections was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM PERFORMING ARTS CENTER OVERSIGHT COMMITTEE -  
APPOINTMENTS**

To appoint citizens to fill five (5) vacancies on the Durham Performing Arts Center Oversight Committee.

Note: This is a newly established board.

**Note: At the Work Session on January 24, 2008, by a vote of 5/0, the City Council directed the City Clerk to re-advertise vacancies on the Durham Performing Arts Center Oversight Committee.**

**SUBJECT: DURHAM CULTURAL MASTER PLAN ADVISORY COMMITTEE -  
APPOINTMENT**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to appoint Beverly Meek to fill one (1) vacancy on the Durham Cultural Master Plan Advisory Board with the term to expire on June 30, 2008 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CITIZENS ADVISORY COMMITTEE - APPOINTMENT**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to appoint Tommie Renae Wright-Kearney to fill one (1) vacancy on the Citizens Advisory Committee with the term to expire on June 30, 2008 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: HUMAN RELATIONS COMMISSION – RECEIPT AND ACCEPTANCE  
OF AN APPLICATION**

**February 4, 2008**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy on the Human Relations Commission for a Non-Minority Female with the term to expire on June 30, 2008 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM CITY-COUNTY HOME CONSORTIUM AGREEMENT  
EXTENSION – COUNTY OF DURHAM**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute the Joint Cooperation Agreement Extension for the Durham City-County HOME Consortium having an effective period ending June 30, 2010; and

To authorize the City Manager to modify the agreement before execution if required provided the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the version approved by the City Council was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT FOR STREETSCAPE SCHEMATIC DESIGN SERVICES IN  
CERTAIN TARGETED COMMUNITY DEVELOPMENT AREAS - E.G.  
AND G., INC.**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a contract with E.G. and G., Inc. in the amount of \$237,965.00 for Streetscape Schematic Design Services in Certain Targeted Community Development Areas; and

To authorize the City Manager to make changes to the contract as may be needed so long as they do not increase the amount to be paid by the City nor limit the benefits to be received by the City was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO MEMORANDUM OF AGREEMENT FOR  
REGIONAL RESPONSE URBAN SEARCH AND RESCUE TEAM - CITY  
OF RALEIGH, TOWN OF CHAPEL HILL, AND THE TOWN OF CARY**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute the Amendment to the Memorandum of Agreement for the Regional Response Urban Search and Rescue Team with the City of Raleigh, Town of Chapel Hill, and the Town of Cary was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor

**February 4, 2008**

Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard.  
Noes: None. Absent: None.

**SUBJECT: CONTRACT FOR DOMESTIC VIOLENCE PROJECT AND  
COMMUNITY LIFE COURT - ADMINISTRATIVE OFFICE OF THE  
COURTS**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a contract amendment between the City of Durham and the Administrative Office of the Courts under which the AOC will expend City funds to continue to support salary and benefits for a judge to hear domestic violence cases in the community and a victim legal assistant in the amount of \$121,300.00 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONSTRUCTION OF A TRAFFIC SIGNAL WITH RAILROAD  
PREEMPTION AND 4-QUADRANT GATES ON DRIVER STREET AT  
THE INTERSECTION WITH NORTH CAROLINA RAILROAD  
COMPANY CROSSING 630 471D - NORTH CAROLINA DEPARTMENT  
OF TRANSPORTATION, NORFOLK SOUTHERN RAILROAD  
COMPANY (NSRC) AND NORTH CAROLINA RAILROAD COMPANY  
(NCRR)**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt a resolution authorizing the City Manager to execute a four party municipal agreement with the North Carolina Department of Transportation, Norfolk Southern Railroad Company (NSRC) and North Carolina Railroad Company (NCRR) for Driver Street railroad crossing improvements (P-3419) warning devices; and

To authorize the City Manager to modify the agreement before execution if required provided the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the version approved by the City Council was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9529**

**SUBJECT: ENGINEERING SERVICES FOR WATER TREATMENT REGULATORY  
COMPLIANCE PROJECT - BLACK AND VEATCH, INC.**

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a contract with Black and Veatch, Inc. for initial engineering services

**February 4, 2008**

for the Water Treatment Regulatory Compliance Project in the total amount not to exceed \$1,902,330.00;

To establish a contingency fund for the contract of \$190,233.00;

To authorize the City Manager to negotiate change orders for the contract provided that the cost of all change orders does not exceed \$190,233.00 and the total initial project cost does not exceed \$2,092,563.00;

To authorize the City Manager to execute an amendment to the contract with Black and Veatch, inc. to provide construction related engineering services needed for the completion of the Project in an amount not to exceed \$1,072,917.00 contingent upon the approval by the Manager or his designee of the initial contract services provided and approval of project funds in the FY 2008-09 CIP; and

To authorize the City Manager to modify the initial contract and amendment before execution provided the modifications do not increase the dollar amount of the contract and amendment and are consistent with the general intent of the version of the contract approved by City Council was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**The City Council disposed of the following agenda items at the January 24, 2008 Work Session:**

**8. Proposed Sale of Property at 520-A Eastway Avenue PIN# 831-10-45-6575**

To determine the property at 520-A Eastway Avenue as surplus;

To authorize the sale of the property under the authority of Section 86 of the City Charter;

To accept the offer to purchase for the property located at 520-A Eastway Avenue; and

To authorize the City Manager to sell and the Mayor to convey the properties by a non-warranty deed and authorize the City Manager to terminate these contracts for sale if the contract terms are not fulfilled.

*(This item was approved at the 01-24-08 Work Session with a vote of 5/0)*

**12. Civic Center Renovation Project Contingency Increase**

To authorize the City Manager to negotiate and execute change orders on Amendment No. 2 provided the total cost does not exceed \$3,057,825.00 which is the full amount budgeted for construction phase services plus the project contingency; and

**February 4, 2008**

To authorize the City Manager to increase the project contingency by \$90,000.00 so that the total project contingency is \$450,027.00.

*(This item was approved at the 01-24-08 Work Session with a vote of 6/0)*

**17. Capital Program Advisory Committee Quarterly Report**

To receive the Capital Program Advisory Committee's (C-PAC) Quarterly Report.

*(A presentation was received at the 01-24-08 Work Session)*

**21. Mercedes Jacobs Bowman**

To receive comments from Mercedes Jacobs Bowman regarding several issues on Fayetteville road.

*(Citizen did not appear at the 01-24-08 Work Session per Citizen's request)*

**22. Truancy Triage Center**

To receive comments from Irene Dwinnell regarding the Truancy Triage Center.

*(Comments were received at the 01-24-08 Work Session)*

**23. Graham T. Olive, Jr.**

To receive comments from Graham T. Olive, Jr. regarding extending bus service to the future Wal-Mart on E. Geer Street.

*(Comments were received at the 01-24-08 Work Session)*

**24. The Life House Learning Center, Inc.**

To receive comments from Terence Hamer regarding surplus property.

*(Comments were received at the 01-24-08 Work Session)*

**25. Central Parking**



**February 4, 2008**

To receive comments from Daniel Lassiter regarding parking management.

*(Citizen did not appear at the 01-24-08 Work Session per Citizen's request)*

**26. City Hall Roof Rehabilitation Construction Change Order and Design Contract Amendment**

To authorize the City Manager to negotiate and execute an amendment to the City of Durham Downtown Buildings Renovation Project Agreement with Heery International, P.C. in the amount of \$20,603.00 so that the total contract amount will not exceed \$1,264,576.00 for additional design related services;

To authorize the City Manager to negotiate and execute a change order to the Amendment 2B to the CM at Risk Contract for City Hall Roof with Skanska USA Building, Inc. in an amount not to exceed \$664,763.00 for the purposes of completing roof renovations;

To authorize the City Manager to negotiate and execute a change order to the Amendment 2B to the CM at Risk Contract for City Hall Roof with Skanska USA Building, Inc. in an amount not to exceed \$585,000.00 for the purposes of incorporating fall protection safety equipment; and

To increase the project contingency to \$113,061.00; and

To authorize the City Manager to negotiate and execute change orders on the City Hall Roof Renovation Project, provided the total project cost does not exceed \$1,937,663.00 which is the full amount budgeted for construction phase services plus the project contingency.

*(This item was approved at the 01-24-08 Work Session with a vote of 5/0)*

**27. Proposed Sale of Property in North East Central Durham to the Durham Housing Authority for the Housing 400 Initiative**

To authorize the City Manager to sell under the authority of G.S. 160A-274 to Development Ventures Incorporated for a purchase price of \$5,000.00 the properties having the following street addresses: 1406, 1408 and 1504 Morning Glory Avenue, 118 N. Blacknall Street, and 115 N. Goley Street;

To authorize the Mayor to convey the property by non-warranty deed containing a covenant that Development Ventures Incorporated, any associated entity or agent for the Housing Authority, or any successor in interest to Development Ventures Incorporated will convey the properties or any portion of the property back to the City of Durham without charge if by three (3) years from the date of conveyance low- to moderate-income persons are not living on the property in a facility developed as part of the Housing 400 Initiative meant to benefit the homeless, and that the deed also provide the City of Durham with a right of re-entry should the property not be utilized in accordance with the covenant;

**February 4, 2008**

To authorize the City Manager to execute a Right of Entry Agreement with Development Ventures Incorporated for the purpose of obtaining appraisals and Phase I Site Assessments and other environmental testing which may be required on the properties Development Ventures Incorporated intends to purchase from the City;

To authorize the City Manager to execute associated legal documents required for this transaction; and

To authorize the City Manager to make changes to all documents associated with this transaction provided such changes are consistent with the intent of the agenda memo and this motion.

*(This item was approved at the 01-24-08 Work Session with a vote of 4/2)*

**[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]**

**SUBJECT: FISCAL YEAR 2008-2009 BUDGET**

Interim Budget Director Bertha Johnson made comments on this item.

Mayor Bell opened the public hearing.

Victoria Peterson urged Council to revisit the lease contract awarded to Venable Tenant, LLC at 302 E. Pettigrew Street. She made comments on other buildings in the NECD community that the City could have utilized that would have been less expensive for the space. She raised a concern with the lease amount, with Council voting on this item at the Work Session Meeting rather than at the Council Meeting and with the owner of the Venable Building serving as a member of the Workforce Development Board.

Mayor Pro Tempore Cole-McFadden made comments on the unsafe conditions of the Holloway Street School building.

Council Member Woodard made comments on the Holton School project.

Mayor Bell reported the City Manager has indicated for the quality building that City employees are moving into, the rates are comparable to what would be paid in other areas in downtown Durham.

Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to conduct a public hearing to receive citizen comments on the City of Durham's Fiscal Year 2008-2009 Budget was approved at 8:04 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**February 4, 2008**

**SUBJECT: ZONING MAP CHANGE – WASHINGTON TERRACE (Z07-03) –  
DURALEIGH INVESTMENTS, LLC – EAST SIDE OF NC 55, SOUTH OF  
RIDDLE ROAD AND NORTH OF WHILDEN DRIVE**

To conduct a public hearing to receive public comments on the zoning map change for Washington Terrace (Z07-03);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-03 out of IP and RU-5 and placing same in and establishing same as IL(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 9-3 on December 11, 2007. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report, comments received during the public hearing and additional committed elements proffered by the applicant at the meeting.

[The site is located on the on the east side of NC 55, south of Riddle Road and north of Whilden Drive. PIN: 0830-03-21-0771, -14-32-0780]

Mayor Bell opened the public hearing.

Interim City/County Planning Director Steve Medlin briefed Council on the staff report. He made comments on the zoning map change noting a development plan is associated with this request. He gave an overview of the following committed elements: 100-foot greenway easement dedication, limitation of certain uses, maximum square footage permissible for a single retail use, additional landscaping along NC 55 frontage and a number of transportation related improvements. He reported this request is consistent with the future land use map and the Comprehensive Plan. He stated staff is recommending approval of this request because of its

**February 4, 2008**

consistency with the Comprehensive Plan and the Planning Commission recommended approval finding that the request is consistent with the adopted Comprehensive Plan and based on information in the staff report. Mr. Medlin certified that all required notifications have been carried out in accordance with the Unified Development Ordinance and affidavits are in the case file for public review.

### **Proponents**

Charles Gooch, of 1908 Riddle Road, made comments noting he was against this item at the Planning Commission Meeting. Since meeting with the developers, he stated he is for this request based on a condition that he has access to a second driveway.

George Stanziale, representing the applicant, stated the developer has agreed upon, when this is built, there will be an easement access between his home and the driveway so that Mr. Gooch would have access out where the road improvements are being done.

Mayor Bell asked the applicant is this issue a committed element.

George Stanziale, representing the applicant, replied yes.

Interim City/County Planning Director Steve Medlin stated the development plan does reflect the cross access between the two properties. The note indicates the exact location will be determined at the site plan approval stage and prior to the certificate of occupancy--staff would verify the exact location.

George Stanziale, representing the applicant, stated the applicant is making two additional committed elements tonight: 1) making this access easement a committed element and 2) all tree preservation with the exception of areas that are necessary for utilities will be a committed element.

Council held discussion on access points to NC 55 and the traffic signal on NC 55.

George Stanziale, representing the applicant, commented on the two access points to the property and stated the committed element states that the applicant would provide a traffic light if it is warranted by NCDOT.

Mayor Bell made comments regarding the need for a traffic signal.

George Stanziale, representing the applicant, added additional language to the committed element regarding a traffic signal that they would do a warrant study for a traffic signal. He made comments on the meetings held with Mr. and Mrs. White and the Emory Woods Community and no concerns were expressed.

No one spoke in opposition to this zoning map change.

**February 4, 2008**

Mayor Bell closed the public hearing.

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to conduct a public hearing to receive public comments on the zoning map change for Washington Terrace (Z07-03);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-03 out of IP and RU-5 and placing same in and establishing same as IL(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13544**

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT – CONSERVATION SUBDIVISION TECHNICAL CHANGE (TC07-16)**

Interim City/County Planning Director Steve Medlin briefed Council on the text amendment and stated staff and the Planning Commission recommended approval of this request. He certified that all required notifications have been carried out in accordance with the Unified Development Ordinance and affidavits are in the case file for public review.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Change – Conservation Subdivision Technical Change (TC07-16); and

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to Article 6, District Intensity Standards was approved at 8:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13545**

**[ITEM PULLED FROM CONSENT AGENDA]**

**February 4, 2008**

**SUBJECT: TIME WARNER ROAD RUNNER INTERNET SERVICE - TIME  
WARNER ENTERTAINMENT-ADVANCE/NEWHOUSE PARTNERSHIP  
DOING BUSINESS AS RALEIGH DIVISION**

To authorize the City Manager to execute Business Class Commercial Service Order Agreement in the amount of \$121,280.00 for 3 years with Time Warner Cable, TIME WARNER ENTERTAINMENT-ADVANCE/NEWHOUSE PARTNERSHIP DOING BUSINESS AS RALEIGH DIVISION; and

To authorize the City Manager to modify the agreement before execution, provided that modifications do not increase the dollar amount of the agreement and are consistent with the general intent of the existing version of the agreement.

Rev. James Vaughan made comments in favor of the bid and questioned the rapport with Time Warner itself at arriving at this bid. He noted on February 9, the state will be reviewing the state franchise and commented on Cable Television Board's previous position with Time Warner. He asked if there are any cooperation problems with Time Warner, he would like to know since they will be commenting with the state on the ramifications of the statewide franchise.

City Manager Baker reported there have been on-going discussions between the City, County and Time Warner on a number of issues. He stated he will provide an update as early as tomorrow.

Rev. James Vaughan informed Council that there is a posting at Time Warner Cable that states as of February 8, public producers will no longer be able to submit programming due to the City.

City Manager Baker stated he would contact Time Warner concerning the posting and requested that this item be held until the February 7, 2008 City Council Work Session.

Council Member Brown commented on Time Warner's upcoming rate increase of 5.9 percent.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to hold this item until the February 7, 2008 City Council Work Session was approved at 8:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 8:25 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk